

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 8/16/21
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DUQUE FALLON, et al.,

Plaintiffs,

-against-

18 GREENWICH AVENUE, LLC, et al.,

Defendants.

19-CV-9579 (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

The Court has received and reviewed the parties' joint letter dated August 5, 2021 (Joint Ltr.) (Dkt. No. 93), seeking approval of their Settlement Agreement and General Release (Agreement) (Dkt. No. 93-1) pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). The Agreement requires defendants 18 Greenwich Avenue, LLC d/b/a Rosemary's (Rosemary's) and Carlos Suarez (Suarez) to pay a total of \$110,000.00 to plaintiffs Duque Fallon (a/k/a Fallon Duque), Edgar Rolando Gutierrez Lopez (a/k/a Edgar Rolando), Eutiquio Leon Garcia, Hugo Alejandro Gallardo, Jose Garcia, Gilberto Lucas Tolentino, Josue Mezarina, and Salvador Sanabria, and their attorneys, in full settlement of their claims under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. (FLSA) and the New York Labor Law (NYLL). Ag. ¶ 3. The proposed award of attorneys' fees and costs will be \$36,666.67, which is one-third of the gross settlement amount. *Id.* ¶ 3(a). The remaining funds, in the amount of \$73,333.33, will be allocated among the eight plaintiffs in proportion to their counsel's estimation of each plaintiff's maximum recoverable damages, totaling \$268,876.60. *Id.* ¶ 3(b); *see also* Joint Ltr. at 2 & Ex. B. The settlement consideration is to be paid within 90 days after this Court approves the Agreement and dismisses the case. Ag. ¶ 4(a).

The Agreement contains a unilateral release limited to the wage and hour claims that were raised or could have been raised in plaintiffs' Second Amended Complaint. Ag. ¶ 6. There is no

confidentiality clause or no-hire provision. The parties request that the Court retain jurisdiction "for purposes of enforcement of this Agreement." *Id.* ¶ 12. The Court notes that the parties reached agreement after a settlement conference supervised by the undersigned Magistrate Judge. (Dkt. No. 91.)

The Court has reviewed the terms of the Agreement, including the proposed award of fees and costs, and finds that they are fair and reasonable as required by *Cheeks*, 796 F.3d at 206. Accordingly, the proposed settlement is APPROVED. The Court will retain jurisdiction for enforcement purposes only.

This action is hereby DISMISSED with prejudice.

The Clerk of Court is respectfully directed to close the case.

Dated: New York, New York  
August 16, 2021

**SO ORDERED.**



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**BARBARA MOSES**  
**United States Magistrate Judge**